

SB0096S02 compared with SB0096S01

~~text~~ shows text that was in SB0096S01 but was deleted in SB0096S02.

text shows text that was not in SB0096S01 but was inserted into SB0096S02.

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Senator Jani Iwamoto proposes the following substitute bill:

CORRECTIONAL OFFICER ELIGIBILITY AMENDMENTS

2022 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Jani Iwamoto

House Sponsor: James A. Dunnigan

LONG TITLE

General Description:

This bill removes the prohibition for 19-year-olds to work as correctional officers for the Department of Corrections.

Highlighted Provisions:

This bill:

- ▶ removes the prohibition for 19-year-olds to work as correctional officers for the Department of Corrections;
- ▶ removes the repeal date from the pilot program allowing 19-year-olds to work as correctional officers;~~and~~
- ▶ allows 19-year-olds to become Special Function Officers; and
- ▶ adds Special Function Officers to the list of 19-year-olds who may work as correctional officers, as long as they are also certified as correctional officers.

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Money Appropriated in this Bill:

None

Other Special Clauses:

This bill provides a special effective date.

Utah Code Sections Affected:

AMENDS:

53-6-203, as last amended by Laws of Utah 2021, First Special Session, Chapter 13

53-13-104, as last amended by Laws of Utah 2019, Chapter 90

53-13-105, as last amended by Laws of Utah 2016, Chapter 300

63I-1-253, as last amended by Laws of Utah 2021, Chapters 14, 64, 106, 233, and 307

64-13-21.5, as last amended by Laws of Utah 1998, Chapter 282

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **53-6-203** is amended to read:

53-6-203. Applicants for admission to training programs or for certification examination -- Requirements.

(1) Before being accepted for admission to the training programs conducted by a certified academy, and before being allowed to take a certification examination, each applicant for admission or certification examination shall meet the following requirements:

(a) be either:

(i) a United States citizen; or

(ii) a lawful permanent resident of the United States who:

(A) has been in the United States legally for the five years immediately before the day on which the application is made; and

(B) has legal authorization to work in the United States;

(b) be at least[?] 19 years old at the time of certification as a special function officer or correctional officer;

~~[(i) 21 years old at the time of certification as a special function officer; or]~~

~~[(ii) as of July 1, 2019, 19 years old at the time of certification as a correctional officer;]~~

(c) be a high school graduate or furnish evidence of successful completion of an

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examination indicating an equivalent achievement;

(d) have not been convicted of a crime for which the applicant could have been punished by imprisonment in a federal penitentiary or by imprisonment in the penitentiary of this or another state;

(e) have demonstrated good moral character, as determined by a background investigation;

(f) be free of any physical, emotional, or mental condition that might adversely affect the performance of the applicant's duties as a peace officer; and

(g) meet all other standards required by POST.

(2) (a) An application for admission to a training program shall be accompanied by a criminal history background check of local, state, and national criminal history files and a background investigation.

(b) The costs of the background check and investigation shall be borne by the applicant or the applicant's employing agency.

(3) (a) Notwithstanding any expungement statute or rule of any other jurisdiction, any conviction obtained in this state or other jurisdiction, including a conviction that has been expunged, dismissed, or treated in a similar manner to either of these procedures, may be considered for purposes of this section.

(b) This provision applies to convictions entered both before and after the effective date of this section.

(4) Any background check or background investigation performed under the requirements of this section shall be to determine eligibility for admission to training programs or qualification for certification examinations and may not be used as a replacement for any background investigations that may be required of an employing agency.

(5) An applicant shall be considered to be of good moral character under Subsection (1)(e) if the applicant has not engaged in conduct that would be a violation of Subsection 53-6-211(1).

(6) An applicant seeking certification as a law enforcement officer, as defined in Section 53-13-103, shall be qualified to possess a firearm under state and federal law.

Section 2. Section **53-13-104** is amended to read:

53-13-104. Correctional officer.

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(1) (a) "Correctional officer" means a sworn and certified officer employed by the Department of Corrections, any political subdivision of the state, or any private entity which contracts with the state or its political subdivisions to incarcerate inmates who is charged with the primary duty of providing community protection.

(b) "Correctional officer" includes an individual assigned to carry out any of the following types of functions:

(i) controlling, transporting, supervising, and taking into custody of persons arrested or convicted of crimes;

(ii) supervising and preventing the escape of persons in state and local incarceration facilities;

(iii) guarding and managing inmates and providing security and enforcement services at a correctional facility; and

(iv) employees of the Board of Pardons and Parole serving on or before September 1, 1993, whose primary responsibility is to prevent and detect crime, enforce criminal statutes, and provide security to the Board of Pardons and Parole, and who are designated by the Board of Pardons and Parole, approved by the commissioner of public safety, and certified by the Peace Officer Standards and Training Division.

(2) (a) Correctional officers have peace officer authority only while on duty. The authority of correctional officers employed by the Department of Corrections is regulated by Title 64, Chapter 13, Department of Corrections - State Prison.

(b) Correctional officers may carry firearms only if authorized by and under conditions specified by the director of the Department of Corrections or the chief law enforcement officer of the employing agency.

(3) (a) An individual may not exercise the authority of an adult correctional officer until the individual has satisfactorily completed a basic training program for correctional officers and the director of the Department of Corrections has certified the completion of training to the director of the division.

(b) An individual may not exercise the authority of a county correctional officer until:

(i) the individual has satisfactorily completed a basic training program for correctional officers and any other specialized training required by the local law enforcement agency; and

(ii) the chief administrator of the local law enforcement agency has certified the

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completion of training to the director of the division.

(4) (a) The Department of Corrections of the state shall establish and maintain a correctional officer basic course and in-service training programs as approved by the director of the division with the advice and consent of the council.

(b) The in-service training shall:

- (i) consist of no fewer than 40 hours per year; and
- (ii) be conducted by the agency's own staff or other agencies.

(5) The local law enforcement agencies may establish correctional officer basic, advanced, or in-service training programs as approved by the director of the division with the advice and consent of the council.

(6) ~~[(a) Beginning July 1, 2019, an]~~ An individual shall be 19 years ~~[of age]~~ old or older before being certified or employed as a correctional officer under this section.

~~[(b) A person under the age of 21 years who is certified as a correctional officer may only be employed in a jail facility.]~~

Section 3. Section **53-13-105** is amended to read:

53-13-105. Special function officer.

(1) (a) "Special function officer" means a sworn and certified peace officer performing specialized investigations, service of legal process, security functions, or specialized ordinance, rule, or regulatory functions.

(b) "Special function officer" includes:

- (i) state military police;
- (ii) constables;
- (iii) port-of-entry agents as defined in Section 72-1-102;
- (iv) authorized employees or agents of the Department of Transportation assigned to administer and enforce the provisions of Title 72, Chapter 9, Motor Carrier Safety Act;
- (v) school district security officers;
- (vi) Utah State Hospital security officers designated pursuant to Section 62A-15-603;
- (vii) Utah State Developmental Center security officers designated pursuant to Subsection 62A-5-206(8);
- (viii) fire arson investigators for any political subdivision of the state;
- (ix) ordinance enforcement officers employed by municipalities or counties may be

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special function officers;

(x) employees of the Department of Natural Resources who have been designated to conduct supplemental enforcement functions as a collateral duty;

(xi) railroad special agents deputized by a county sheriff under Section 17-30-2 or 17-30a-104, or appointed pursuant to Section 56-1-21.5;

(xii) auxiliary officers, as described by Section 53-13-112;

(xiii) special agents, process servers, and investigators employed by city attorneys;

(xiv) criminal tax investigators designated under Section 59-1-206; and

(xv) all other persons designated by statute as having special function officer authority or limited peace officer authority.

(2) (a) A special function officer may exercise that spectrum of peace officer authority that has been designated by statute to the employing agency, and only while on duty, and not for the purpose of general law enforcement.

(b) If the special function officer is charged with security functions respecting facilities or property, the powers may be exercised only in connection with acts occurring on the property where the officer is employed or when required for the protection of the employer's interest, property, or employees.

(c) A special function officer may carry firearms only while on duty, and only if authorized and under conditions specified by the officer's employer or chief administrator.

(3) (a) A special function officer may not exercise the authority of a [~~peace~~] special function officer until:

(i) the officer has satisfactorily completed an approved basic training program for special function officers as provided under Subsection (4); and

(ii) the chief law enforcement officer or administrator has certified this fact to the director of the division.

(b) City and county constables and their deputies shall certify their completion of training to the legislative governing body of the city or county they serve.

(4) (a) The agency that the special function officer serves may establish and maintain a basic special function course and in-service training programs as approved by the director of the division with the advice and consent of the council.

(b) The in-service training shall consist of no fewer than 40 hours per year and may be

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conducted by the agency's own staff or by other agencies.

(5) (a) An individual shall be 19 years old or older before being certified or employed as a special function officer.

(b) A special function officer who is under 21 years old may only work as a correctional officer in accordance with Subsection (5)(c).

(c) A person under 21 years old ~~who is certified as a special function officer~~ may only be employed as, and exercise the authority of, a correctional officer in a ~~correctional facility~~ state or county correctional agency if the person is certified as a correctional officer.

Section 4. Section **63I-1-253** is amended to read:

63I-1-253. Repeal dates, Titles 53 through 53G.

(1) Section 53-2a-105, which creates the Emergency Management Administration Council, is repealed July 1, 2022.

(2) Sections 53-2a-1103 and 53-2a-1104, which create the Search and Rescue Advisory Board, are repealed July 1, 2022.

(3) Section 53-5-703, which creates the Concealed Firearm Review Board, is repealed July 1, 2023.

~~[(4) Subsection 53-6-203(1)(b)(ii), regarding being 19 years old at certification, is repealed July 1, 2027.]~~

~~[(5) Subsection 53-13-104(6)(a), regarding being 19 years old at certification, is repealed July 1, 2027.]~~

~~[(6) (4) Section 53B-6-105.5, which creates the Technology Initiative Advisory Board, is repealed July 1, 2024.~~

~~[(7) (5) Title 53B, Chapter 17, Part 11, USTAR Researchers, is repealed July 1, 2028.~~

~~[(8) (6) Section 53B-17-1203, which creates the SafeUT and School Safety Commission, is repealed January 1, 2025.~~

~~[(9) (7) Title 53B, Chapter 18, Part 16, USTAR Researchers, is repealed July 1, 2028.~~

~~[(10) (8) Title 53B, Chapter 24, Part 4, Rural Residency Training Program, is repealed July 1, 2025.~~

~~[(11) (9) Subsection 53C-3-203(4)(b)(vii), which provides for the distribution of money from the Land Exchange Distribution Account to the Geological Survey for test wells and other hydrologic studies in the West Desert, is repealed July 1, 2030.~~

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~~[(12)]~~ (10) Section 53E-3-515 is repealed January 1, 2023.

~~[(13)]~~ (11) In relation to a standards review committee, on January 1, 2023:

(a) in Subsection 53E-4-202(8), the language "by a standards review committee and the recommendations of a standards review committee established under Section 53E-4-203" is repealed; and

(b) Section 53E-4-203 is repealed.

~~[(14)]~~ (12) Subsections 53E-3-503(5) and (6), which create coordinating councils for youth in custody, are repealed July 1, 2027.

~~[(15)]~~ (13) Section 53E-4-402, which creates the State Instructional Materials Commission, is repealed July 1, 2022.

~~[(16)]~~ (14) Title 53E, Chapter 6, Part 5, Utah Professional Practices Advisory Commission, is repealed July 1, 2023.

~~[(17)]~~ (15) Subsection 53E-8-204(4), which creates the advisory council for the Utah Schools for the Deaf and the Blind, is repealed July 1, 2021.

~~[(18)]~~ (16) Section 53F-2-420, which creates the Intensive Services Special Education Pilot Program, is repealed July 1, 2024.

~~[(19)]~~ (17) Section 53F-5-203 is repealed July 1, 2024.

~~[(20)]~~ (18) Section 53F-5-212 is repealed July 1, 2024.

~~[(21)]~~ (19) Section 53F-5-213 is repealed July 1, 2023.

~~[(22)]~~ (20) Section 53F-5-214, in relation to a grant for professional learning, is repealed July 1, 2025.

~~[(23)]~~ (21) Section 53F-5-215, in relation to an elementary teacher preparation grant, is repealed July 1, 2025.

~~[(24)]~~ (22) Subsection 53F-9-203(7), which creates the Charter School Revolving Account Committee, is repealed July 1, 2024.

~~[(25)]~~ (23) Section 53F-9-501 is repealed January 1, 2023.

~~[(26)]~~ (24) Subsections 53G-4-608(2)(b) and (4)(b), related to the Utah Seismic Safety Commission, are repealed January 1, 2025.

~~[(27)]~~ (25) Subsection 53G-8-211(5), regarding referrals of a minor to court for a class C misdemeanor, is repealed July 1, 2022.

Section 5. Section **64-13-21.5** is amended to read:

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64-13-21.5. Powers of correctional officers and POST certified correctional enforcement or investigation officers.

(1) Employees of the department who are designated by the executive director as correctional officers may exercise the powers and authority of a [~~peace~~] correctional officer [~~only when~~] as needed to properly carry out the following functions:

- (a) performing the officer's duties within the boundaries of a correctional facility;
- (b) supervising an offender during transportation;
- (c) when in fresh pursuit of an offender who has escaped from the custody of the department; or
- (d) when requested to assist a local, state, or federal law enforcement agency.

(2) Employees of the department who are POST certified as law enforcement officers or correctional officers and who are designated as correctional enforcement or investigation officers have the following duties as specified by the executive director:

- (a) providing investigative services for the department;
- (b) conducting criminal investigations and operations in cooperation with state, local, and federal law enforcement agencies; and
- (c) providing security and enforcement for the department.

Section 6. **Effective date.**

If approved by two-thirds of all the members elected to each house, this bill takes effect upon approval by the governor, or the day following the constitutional time limit of Utah Constitution, Article VII, Section 8, without the governor's signature, or in the case of a veto, the date of veto override.